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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,159	08/23/2001	Paul Clinton Coffin	10012828-1	1251

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

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01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/938,159	COFFIN ET AL.
	Examiner	Art Unit
	Hanh V. Tran	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 October 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22,24,25,27-29,43-53,60-63 and 65-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 24,25,27-29,43-46,48,49,60-63,65 and 66 is/are rejected.
- 7) Claim(s) 22,47,50-53 and 67 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/25/07.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 10/25/2007.

Claim Objections

2. Claim 28 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. More specifically, claim 28 is currently depending on cancelled claim 26. For the purpose of this examination, the examiner is considering that claim 28 depends on claim 60.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 48-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 48, line 2, "drawer" lacks antecedent basis.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 24-25, 27-29, 60-63, and 65 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 4, and 16 of U.S. Patent No. 6,813,113 to Mueller et al in view of U.S. Patent No. 6,042,205 to Coffin et al.

Claims 1-4 and 16 of Mueller recite a data storage system housing (data storage system of Mueller) having an opening, and reference structures (cartridge alignment apparatus in claims 1-2 of Mueller) located adjacent the opening; a media storage device (cartridge magazine of Mueller) for storing a plurality of data media, the media storage device comprising a device housing configured to receive the plurality of data media, the device housing having alignment structures (claim 2 of Mueller) to slidably engage with a respective one of the reference structures to enable slidable movement of the media storage device through the opening of the data storage system housing; a moveable media exchange device (drawer of Mueller) to receive the media storage device, the media exchange device being moveable between a retracted position and an extended position; and guide structures (first guide rail, guide rail and second guide rail of Mueller) to moveably guide the media exchange device between the retracted

and extended positions, the guide rails being separate from the reference, wherein the guide rails comprise a first guide rail attached to the drawer, a second guide rail attached to the system housing, and a third guide rail slidably engaged to the fast and second guide rails, wherein the device housing comprises a plurality of slots defined by a plurality of dividers positioned in spaced-apart relation within the device housing. The differences being that Mueller fails to disclose a spring mechanism having fingers configured to engage the corresponding plurality of data media to secure the plurality of data media in the device housing, wherein the fingers comprise respective locking elements to secure respective data media, wherein the spring mechanism has a first end and a second end, the first end being operationally attached to the top of the device housing, and each finger is attached to the second end of the spring mechanism, and wherein the spring mechanism and fingers are configured to engage and secure the corresponding plurality of data media in respective slots, wherein the spring mechanism comprises a metallic strip, the media storage device is molded from plastic, a handle configured to enable an operator to apply a force substantially parallel to the alignment structures such that when the alignment structures engage the reference structures the media storage device may be inserted and removed from the system housing, the media storage device has a plurality of slots to receive respective data media devices.

Coffin et al discloses, such as shown in Fig 1, a media storage device having a housing 104, a spring mechanism 200 having fingers 214 configured to engage the corresponding plurality of data media 400 to secure the plurality of data media 400 in the device housing 104, wherein the fingers 214 comprise respective locking elements

510 to secure respective data media, wherein the spring mechanism has a first end and a second end, the first end being operationally attached to the top of the device housing 104, and each finger is attached to the second end of the spring mechanism, and wherein the spring mechanism and fingers are configured to engage and secure the corresponding plurality of data media in respective slots, wherein the spring mechanism comprises a metallic strip, a handle 300 configured to enable an operator to apply a force substantially parallel to the alignment structures such that when the alignment structures engage the reference structures the media storage device may be inserted and removed from the system housing, the media storage device has a plurality of slots 130 to receive respective data media devices. Therefore, it would have been obvious to modify the structure of Mueller et al by providing a spring mechanism having fingers configured to engage the corresponding plurality of data media to secure the plurality of data media in the device housing, wherein the fingers comprise respective locking elements to secure respective data media, wherein the spring mechanism has a first end and a second end, the first end being operationally attached to the top of the device housing 104, and each finger is attached to the second end of the spring mechanism, and wherein the spring mechanism and fingers are configured to engage and secure the corresponding plurality of data media in respective slots, wherein the spring mechanism comprises a metallic strip, a handle 300 configured to enable an operator to apply a force substantially parallel to the alignment structures such that when the alignment structures engage the reference structures the media storage device may be inserted and removed from the system housing, the media storage device has a

plurality of slots 130 to receive respective data media devices, as taught by Coffin et al, since both teach alternate conventional media storage device structure, used for the same intended purpose, thereby providing structure as claimed. In regard to the media storage device is molded from plastic, it is well known in the art to have a media storage device molded from plastic in order to provide a media storage device which is inexpensive to manufacture and very durable. Therefore, it would have been obvious to modify the structure of Mueller et al by having the media storage device molded from plastic in order to provide a media storage device which is inexpensive to manufacture and very durable.

7. Claims 43-46, and 66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 4, and 16 of U.S. Patent No. 6,813,113 to Mueller et al in view of U.S. Patent No. 6,042,205 to Coffin et al.

Claims 1-4 and 16 of Mueller recite a data storage system housing (data storage system of Mueller) having an opening, and reference structures (cartridge alignment apparatus in claims 1-2 of Mueller) located adjacent the opening; a media storage device (cartridge magazine of Mueller) for storing a plurality of data media, the media storage device comprising a device housing configured to receive the plurality of data media, the device housing having alignment structures (claim 2 of Mueller), each of which is adapted to slidably engage with a respective one of the reference structures such that the media storage device may be inserted into and removed from the system housing by slidably engaging the reference structures and the alignment structures and

guiding the media storage device through the opening of the system housing along a longitudinal axis of the device housing, the data media being inserted into and removed from the device housing along an axis transverse to the longitudinal axis; a drawer (drawer of Mueller) to receive the media storage device, the drawer being moveable between a retracted position and an extended position; and guide rails (first guide rail, guide rail and second guide rail of Mueller) to enable movement of the drawer between the retracted and extended positions, the guide rails being separate from the reference, wherein the guide rails comprise a first guide rail attached to the drawer, a second guide rail attached to the system housing, and a third guide rail slidably engaged to the fast and second guide rails. The differences being that Mueller fails to disclose a spring mechanism having fingers configured to engage the corresponding plurality of data media to secure the plurality of data media in the device housing, wherein the fingers comprise respective locking elements to secure respective data media.

Coffin et al discloses, such as shown in Fig 1, a media storage device having a housing 104, a spring mechanism 200 having fingers 214 configured to engage the corresponding plurality of data media 400 to secure the plurality of data media 400 in the device housing 104, wherein the fingers 214 comprise respective locking elements 510 to secure respective data media. Therefore, it would have been obvious to modify the structure of Mueller et al by providing a spring mechanism having fingers configured to engage the corresponding plurality of data media to secure the plurality of data media in the device housing, wherein the fingers comprise respective locking elements to secure respective data media, as taught by Coffin et al, since both teach alternate

conventional media storage device structure, used for the same intended purpose, thereby providing structure as claimed.

Allowable Subject Matter

8. Claims 48-49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 22, 47, 50-53, and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
January 22, 2008

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